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April 12, 2016

Zachary K. Griefen, Esq.
Conservation Law Foundation
15 East Street, Suite 4
Montpelier, VT 05602

Re: Donovan Bros, Inc.

Dear Attorney Griefen:

We are all citizens of the United States and I certainly cannot stop you from filing a law suit - but I have a hard time accepting your statement that "CLF continues to have a good faith belief in the violations alleged in our 60-day letter." I say this for the following reasons:

1. Although your letter is dated Feb 17 2016, it was not received in my office until several days later. A copy of your letter is attached.
2. I received the letter – not because I was the attorney for Donovan Bros, Inc. but because I am listed as the resident agent for the corporation.
3. The first time I could meet with Gaylon Donovan, the 89 year old owner and principal officer of the corporation, was March 2, 2016.
4. Mr. Donovan retained me at that time. Based on our review of your very technical letter, we immediately contacted Tighe & Bond of Westfield MA to see if they would serve as company consultant in regards to the Clean Water Act and our obligations under the law.
5. Donovan Bros met with David Horowitz of Tighe and Bond on March 4, 2016.
6. I first spoke with you on March 7 providing you with the details of my clients response to the concerns set forth in your letter. In summary, my client's response was and remains

"Donovan Bros will do everything within its power to make sure that it is in compliance with the laws of the United States."

7. Donovan Bros entered into a Scope of Services Agreement with Tighe & Bond on March 9, 2016. I emailed you a copy of the signed agreement that day. A copy is attached hereto. The Services agreement showed my client's intent to develop a Storm Water Prevention Pollution Plan and file a Notice of intent to seek coverage under a Multi Sector General Permit.
8. On March 15 Tighe & Bond sent one of its scientists to the site to take water samplings. No sampling could be taken because there was no evidence of a discharge from the Donovan Bros site to the waters of the United States. You were copied on the email from Tighe & Bond.
9. On March 23 I sent you the following statement in an email "I visited the site today with Tim Keefe of Tighe & Bond. Once again it was not possible to take a sample as there was no discharge. Since this was Mr. Keefe's second visit to the site, I questioned him about this. Mr. Keefe pointed out that the water in the Donovan retention pond would have to rise about four feet in order to begin discharging. He suggested that it is unlikely, absent a major catastrophic weather event – such as a hurricane- that there would ever be a discharge from the Donovan Site. He also pointed out that if there was a discharge following a catastrophic rain event the water would be directed from one of Donovan's four retention ponds to a State storm water collection basin which services the Eastern border of State Highway (Route 112). He noted that when water from the State Highway basin reaches a certain level, it release into a concrete pipe which crosses under the state highway and then discharges through a culvert where it is released to a vegetation covered buffer zone. The storm water would then have to travel across the buffer zone to reach the Westfield River.

   Mr. Keefe said that a major rain event is possible for Friday of this week, and if it occurred, he would once again come to the site to see if a sample could be gathered. With all this in mind, Mr. Donovan asked – "If it is determined that we don't really ever discharge to the Westfield River, do we still need to file a Notice of Intent?" I have to admit that it is a good question – how would you propose I answer it?

10. You responded to my email the next day as follows "Thank you for your email and thoughtful question.

    If the facility never discharges and never will discharge stormwater or process water to waters of the United States, then no Clean Water Act NPDES discharge permit is required. But CLF reasonably believes that the Donovan Bros. facility does and will discharge into the Westfield River. You may find this (non-binding) Q&A from EPA Region 10 helpful:

    https://www3.epa.gov/region10/pdf/npdes/stormwater/msgp_faq_aug2015.pdf ("Q8. If stormwater from my industrial operation does not discharge to waters of the U.S., do I need a permit? A8. No. However, the potential for any discharge to waters of the U.S. should be carefully evaluated and documented by the operator. Even if a discharge to waters of the U.S. occurs only rarely, as with a 100-year storm event, permit coverage for that discharge is required.").

    In an effort to contain litigation costs at this early stage and thereby, hopefully, make settlement negotiations more productive, CLF has not yet engaged its engineering consultant on this matter. But at some point it may make sense to have our respective consultants conduct a joint site visit, with or without lawyers on both sides present. In particular, if we start to argue about stormwater calculations, I'll need to rely on expert advice."

11. I immediately responded by email and Certified Mail inquiring as to the facts supporting the statement "CLF reasonably believes that Donovan Bros. facility does and will discharge into the Westfield River". Now more than a month has passed since Tighe and Bond's review of the site on March 23. Every day that Donovan Bros is operating the site is viewed to determine whether there is any opportunity to gather a sample from the "outfall" point. Every day it has been observed that there is no discharge – even during and following significant rain events. It is further observed that there is no evidence that the site is even close to having a discharge event.
12. Regardless of this fact – the absence of any known discharge to waters of the United States - Donovan Bros continues to retain Tighe & Bond to take all appropriate and timely action to file a Notice of Intent and to develop a SWPPP and to implement Best Practices to insure that Donovan Bros Inc. will operate responsibly within the parameters

of an MSGP – even in the unlikely event that a discharge may ever happen. In other words, Donovan Bros will file for the permit – whether it needs it or not – and you have been consistently advised of that position.

13. As you know, Donovan Bros even went to the extent of authorizing Tighe & Bond to collect samples from the retention pond which would be the most likely source from which any discharge may occur. I sent you the results of those water tests on April 4, 2016. You will recall that they showed no measurable pollutants. In other words, even in the unlikely event of a discharge from the likely outfall and even if unlikely event that the discharge somehow reached the river – there is no evidence of pollutants in the retention pond that would pollute the river.
14. Now we are at the point where my client has agreed to allow your chosen consultant, Bob Roseen, to visit the site with Dave Horowitz, our consultant, – to satisfy yourself that Donovan Bros is not discharging "into the Waters of the United States" and you are informing me that you intend to proceed to litigation – rather than await the report from your own consultant. And not only that, you calculate the 60 day notice period to commence with the date you wrote the letter – not the date it was actually received.
15. So I have to ask you once again, on what fact or facts do you rest your "good faith belief in the violations alleged in our 60-day notice letter" and where is the "good faith" when my client has taken all reasonable responsible action to insure that it has been operating in compliance with the laws of the United States?

I respectfully request that you await your own consultant's report before calling my client's good name into question by naming it as a defendant in a Federal lawsuit - based on what appear at this time to be "unsubstantiated allegations".

Thank you for your consideration

Martin

Sincerely,

Martin O'Connell

Cc: Client

David P. Horowitz, P.E., CSP

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February 17, 2016

Gaylon Donovan, President
Donovan Bros, Inc.
121 Ireland Street
West Chesterfield, MA 01012

Martin O'Connell, Registered Agent
Donovan Bros, Inc.
155 Maple Street, Suite 300
Springfield, MA 01105

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

RE: Notice of Violations and Intent to File Suit under the Clean Water Act

To Whom It May Concern:

The Conservation Law Foundation ("CLF")[1] hereby gives notice to the addressed persons of its intent to file suit pursuant to Section 505 of the Federal Water Pollution Control Act ("Clean Water Act," "CWA," or "Act"), 33 U.S.C. § 1365(a), for violations of the Act specified below. This letter constitutes notice pursuant to 40 C.F.R., Part 135 (the "Notice") to the addressed persons of CLF's intention to file suit in United States District Court of the District of Massachusetts seeking appropriate equitable relief, civil penalties, and other relief no earlier than 60 days from the postmark date of this Notice letter.

The subject of this action is two-fold. First, Donovan Bros, Inc., d/b/a Donovan Brothers Sand and Gravel (hereinafter "Donovan Bros") is discharging stormwater directly associated with the construction sand and gravel site at 87 Worthington Road, Huntington, MA 01050 (the "Facility"), to the waters of the United States without a permit, in violation of 33 U.S.C. §§ 1311(a) and 1342(p)(2)(B). Second, Donovan Bros has failed to obtain coverage under any Clean Water Act permit including the Multi-Sector General Permit[2] ("MSGP") adopted by EPA

[1] CLF is a not-for-profit 501(C)(3) organization dedicated to the conservation and protection of New England's environment. Its mission includes the conservation and protection of the many uses of the waters in and around the Westfield watershed for, among other things, fishing, recreation, boating, scenic/aesthetic, and scientific purposes. CLF's membership includes people who live in or near the Charles watershed, and use and enjoy the watershed for recreational, aesthetic, and/or scientific purposes. The interests of CLF's members are adversely affected by the Facility's discharges of stormwater pollution to the receiving waters without a permit and in violation of the Clean Water Act.

[2] ENVIRONMENTAL PROTECTION AGENCY, MULTI-SECTOR GENERAL PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY (MSGP) [hereinafter MSGP], *available at*

for industrial sources of polluted stormwater runoff, and failed to comply with the specific requirements of any such permit, in violation of Sections 402(p)(3)(A) and 402(p)(4)(A) of the CWA, 33 U.S.C. §§ 1342(p)(3)(A) and (p)(4)(A), and 40 C.F.R. §§ 122.26(c)(1) and (e)(1). In addition, Donovan Bros has failed to obtain individual National Pollutant Discharge Elimination System ("NPDES") permit coverage for the Facility's process water discharges.

BACKGROUND

The Westfield River (Waterbody ID MA32-05) is a 17.8-square mile waterway within the Westfield watershed. Donovan Bros discharges into the Westfield River approximately 0.4 miles downstream from the beginning of Waterbody MA32-05. Thereafter, this segment of the Westfield River (Waterbody MA32-05) flows into downstream reaches of the Westfield River (Waterbody MA32-06 and Waterbody MA32-07). Waterbody MA32-07 confluences with the Connecticut River (Waterbody MA34-05). Waterbody MA34-05 flows into downstream reaches of the Connecticut River before outletting into the Atlantic Ocean. EPA has designated the Westfield River (Waterbody MA32-05) as a habitat for "fish, shellfish, and wildlife protection and propagation" and "aesthetic value," and has designated a downstream segment of the Westfield River (Waterbody MA32-07) as a habitat for recreation and "aesthetic value."[34] EPA has designated the Connecticut River (Waterbody MA34-05) as a habitat for "aquatic life harvesting," "fish, shellfish, and wildlife protection and propagation," "aesthetic value," and recreation.[5] The use of these waterways for other purposes is not assessed at this time.

EPA has designated the Westfield River (Waterbody MA32-05) as impaired pursuant to Section 303(d) of the Act, 33 U.S.C. § 1313(d), for failure to meet minimum water quality standards.[6] This segment of the Westfield River is impaired for excess algal growth, taste and odor, turbidity, and impaired biota (namely aquatic macroinvertebrates). Stormwater is a probable source of impairments in Waterbody MA32-05.[7]

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http://water.epa.gov/polwaste/npdes/stormwater/upload/msgp2015_finalpermit.pdf (last visited February 16, 2016).

[3] *See* 2012 Waterbody Report for Westfield River *at* http://ofmpub.epa.gov/waters10/attains_waterbody.control?p_au_id=MA32-05&p_list_id=MA32-05&p_cycle=2012 (last visited February 16, 2016).

[4] *See* 2012 Waterbody Report for Westfield River *at* http://ofmpub.epa.gov/waters10/attains_waterbody.control?p_au_id=MA32-07&p_cycle=2012 (last visited February 16, 2016).

[5] *See* 2012 Waterbody Report for Connecticut River *at* http://ofmpub.epa.gov/waters10/attains_waterbody.control?p_au_id=MA34-05&p_list_id=MA34-05&p_cycle=2012 (last visited February 16, 2016).

[6] *See* 33 U.S.C. § 1313(d).

[7] See *supra* note 3.

The Westfield River (Waterbody MA32-05) flows into lower segments of the Westfield River (Waterbody MA32-06 and Waterbody MA32-07). EPA has not assessed impairments in Waterbody MA32-06 and Waterbody MA32-07 at this time.[89]

A downstream segment of the Westfield River (Waterbody MA32-07) confluences with the Connecticut River (Waterbody MA34-05). The EPA has designated the Connecticut River (Waterbody MA34-05) as impaired pursuant to Section 303(d) of the Act, 33 U.S.C. § 1313(d), for failure to meet minimum water quality standards. This segment of the Connecticut River is impaired for pathogens (namely Escherichia coli, or E. coli), polychlorinated biphenyls (or PCBs, found in fish tissue), and turbidity.[10] Stormwater is a probable source of impairments in Waterbody MA34-05.

Stormwater is water from precipitation events that flows across the ground and pavement after it rains or after snow and ice melt.[11] Industrial activities, such as material handling and storage, equipment maintenance and cleaning, industrial processing, and other operations that occur at industrial facilities, may be exposed to stormwater.[12] Stormwater from industrial facilities, contaminated with pollutants, is then conveyed into nearby waterbodies.[13]

Donovan Bros is required to apply for coverage under a Clean Water Act discharge permit such as the MSGP in order to discharge lawfully. Since at least 2010, Donovan Bros has been specifically required to apply for coverage under the MSGP by filing a Notice of Intent ("NOI") within ninety days after the initial issuance of the MSGP.[14] On June 16, 2015, after expiration of the prior permit, the EPA issued a new MSGP requiring all covered facilities to file an NOI for coverage under the 2015 permit.

Donovan Bros has failed to obtain coverage under the MSGP or any other valid authorization, at any time. Therefore, Donovan Bros is operating in violation of the Clean Water Act.

PERSONS RESPONSIBLE FOR ALLEGED VIOLATIONS

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[8] *See* 2012 Waterbody Report for Westfield River *at* http://ofmpub.epa.gov/waters10/attains_waterbody.control?p_au_id=MA32-06&p_cycle=2012 (last visited February 5, 2016).
[9] See *supra* note 4.
[10] See *supra* note 5.
[11] *See* 40 C.F.R. § 122.26(b)(13).
[12] *See* 40 C.F.R. § 122.26(b)(14).
[13] *See* 58 Fed. Reg. 61,146, 61,154 (November 19, 1993).
[14] EPA's Final National Pollutant Discharge Elimination System Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) was first issued in 1995, reissued in 2000, 2008, and 2015. *See* 60 Fed. Reg. 50,804 (Sept. 29, 1995); 65 Fed. Reg. 64,746 (Oct. 30, 2000); 73 Fed. Reg. 56,572 (Sept. 29, 2008); 80 Fed. Reg. 34,403 (June 16, 2015). *See* MSGP parts 1.1 and 1.2.

Donovan Bros is the person, as defined by 33 U.S.C. § 1362(5), responsible for the violations alleged in this Notice. Donovan Bros has operated the Facility since at least 1954 and currently advertises as the operator of the Facility, and is registered with the Secretary of the Commonwealth as the operator of the facility.[15] Donovan Bros and its agents and directors, including but not limited to Gaylon Donovan, president and director, have operational control over the day-to-day industrial activities at this Facility. Therefore, they are responsible for managing stormwater at the Facility in compliance with the Clean Water Act.

LOCATION OF THE ALLEGED VIOLATION

The violations alleged in this Notice have occurred and continue to occur at the construction sand and gravel Facility located at 87 Worthington Road, Huntington, MA 01050.

ACTIVITIES ALLEGED TO BE VIOLATIONS

Donovan Bros has engaged, and continues to engage in "industrial activities" and its operations fall under SIC code 1442, within the meaning of 40 C.F.R. § 122.26(b)(14).[16] Because the Facility has a primary SIC code of 1442 and discharges stormwater associated with industrial activity, Donovan Bros is required to apply for coverage, obtain coverage, and comply with the requirements of a NPDES permit such as the MSGP. Donovan Bros has failed to take any of these required steps.

Activities at the Facility include, but are not limited to: storing, moving, and processing sand and gravel (exposed aggregate), and other materials outside or otherwise exposing them to the elements; operating and storing heavy machinery and equipment outdoors; and driving vehicles on and off the Facility thereby tracking pollutants off-site. All of these activities at the Facility have contaminated the site with industrial pollutants.

Sand and gravel (exposed aggregate), and other materials; machinery and equipment; and vehicles at the Facility are exposed to precipitation and snowmelt. Precipitation falls on and flows over the sand and gravel piles; machinery and equipment; and vehicles, picking up dust, total suspended solids (TSS), total dissolved solids (TDS), fines, diesel/gas fuel, oil, heavy metals, trash, and other pollutants associated with the Facility's operations. The polluted runoff is then conveyed off-site into waters of the United States.

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[15] *See* http://corp.sec.state.ma.us/CorpWeb/CorpSearch/CorpSummary.aspx?FEIN=042219055&SEARCH_TYPE=1 (last visited February 5, 2016).

[16] *See* MSGP, Appendix D: Activities Covered, at D-3. Construction sand and gravel facilities identified by the SIC code 1442 are subject to the requirements of the MSGP for stormwater discharges.

In addition, to the extent that Donovan Bros uses water in its industrial processes, including but not limited to washing sand, rock and gravel and spraying water on rock crushing and sorting machinery, that water becomes "process wastewater" (also referred to as "process water") as defined in 40 C.F.R. § 122.2.[17] Discharges of process wastewater are not covered under the Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity. Discharges of process wastewater must instead be covered under an individual NPDES permit. CLF intends to pursue claims related to Donovan Bro's unpermitted discharges of process water to waters of the United States.

STANDARDS AND LIMITATIONS ALLEGED TO HAVE BEEN VIOLATED

The Clean Water Act prohibits the discharge of pollutants to the waters of the United States except in accordance with a valid NPDES permit.[18] Donovan Bros discharges stormwater associated with its industrial activity, as defined by 40 C.F.R. § 122.26(b)(14), from its Facility into waters of the United States. Because Donovan Bros has not obtained coverage for these stormwater discharges under the MSGP or an individual NPDES permit, it is illegally discharging stormwater without a permit, in violation of Sections 301(a) and 402(p)(2)(B) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p)(2)(B).[19] By failing to apply for and comply with the specific requirements of the MSGP, Donovan Bros is in violation of Sections 402(p)(3)(A) and 402(p)(4)(A) of the CWA, 33 U.S.C. §§ 1342(p)(3)(A) and (p)(4)(A), and 40 C.F.R. §§ 122.26(c)(1) and (e)(1). In addition, unpermitted discharges of process wastewater constitute violations of 33 U.S.C. § 1311(a) and CLF puts Donovan Bros on notice that CLF intends to pursue claims related to Donovan Bro's unpermitted discharges of process wastewater to waters of the United States.

a. Donovan Bros is discharging stormwater to waters of the United States without a permit.

Donovan Bros is an industrial discharger with a primary SIC Code of 1442 which means that pursuant to Section 402(p) of the Act, Donovan Bros is obligated to apply for coverage under the MSGP or obtain other legal authorization. Because Donovan Bros has operated and continues to

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[17] Defining "Process wastewater" as "any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product."

[18] 33 U.S.C. § 1311(a).

[19] *See* 33 U.S.C. § 1362(12); 40 C.F.R. § 122.2; MSGP, Appendix A: Definitions, Abbreviations, and Acronyms (defining the term "discharge of a pollutant" as, *inter alia*, "any addition of any 'pollutant' or combination of pollutants to 'waters of the United States' from any 'point source'").

operate without a permit under Section 402(p), Donovan Bros is in violation of Section 301(a) of the Act.

In addition, during storm events, Donovan Bros' "industrial activities" at its Facility have resulted in a "discharge of pollutants" within the meaning of 33 U.S.C. § 1362(12) and "stormwater discharge associated with industrial activity" within the meaning of 40 C.F.R. § 122.26(b)(14), from its Facility on each and every day that there has been a measurable precipitation event of above 0.1 inches.[20] There have been many such storm events since 1954. The Facility is generating pollutants from and through at least the following point sources: the sand, gravel, and various other material piles that are open to the elements; the machines and equipment left outdoors, and the vehicles driving on and off the Facility, while additionally conveying pollutants through site grading, surface water channels, subsurface hydrological connections, detention ponds, culverts, and other conveyances to the Westfield River.[21] Downstream segments of the Westfield River flow and confluence with the Connecticut River, and downstream reaches of the Connecticut River outlet into the Atlantic Ocean. All of the aforementioned waterbodies are "waters of the United States," as defined in 40 C.F.R. § 122.2, and therefore, "navigable waters," as defined in 33 U.S.C. § 1362(7). The Facility is discharging this industrial stormwater without the permit required under Section 402 of the Act, 33 U.S.C. § 1342.

b. <u>Donovan Bros is discharging process water to waters of the United Stated without a permit.</u>

Wastewater associated with industrial processes, including, but not limited to, washing materials and paved surfaces and spraying machinery, is classified as "process wastewater" under the federal Clean Water Act and as defined in 40 C.F.R. § 122.2. Wastewater produced by washing materials and paved surfaces and spraying machinery can contain a variety of pollutants, including detergents, oil, grease, heavy metals, and other pollutants associated with the Facility's operations. In addition, solids suspended or dissolved in washwater can pollute ground and surface waters. Process wastewater can have severe and long-term impacts on aquatic environments.

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[20] *See* 40 C.F.R. § 122.26(c)(i)(E)(6). EPA has determined that precipitation greater than 0.1 inches in a 24-hour period constitutes a measurable precipitation event for the purposes of evaluating stormwater runoff associated with industrial activity.

[21] These discharges constitute "point sources" as defined by 33 U.S.C. § 1362(14) and 40 C.F.R. § 122.2. CLF specifically puts Donovan Bros on notice that the unpermitted stormwater discharges associated with industrial activity include discharges from the Facility areas specified in 40 C.F.R. § 122.26(b)(14). *See also* 40 C.F.R. § 122.2, which states that the definition of "discharge of a pollutant" "includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man[.]"

Discharges of process water that result from washing materials and paved surfaces and spraying machinery are not covered under the MSGP. Discharges of process wastewater must instead be covered under an individual NPDES permit. Donovan Bros does not have an individual NPDES permit authorizing the discharge of pressure washwater to waters of the United States. CLF intends to pursue claims related to Donovan Bros' unpermitted discharges of process water to waters of the United States, namely the Westfield River.

c. Donovan Bros is violating the Clean Water Act by failing to obtain coverage and failing to comply with the requirements of the MSGP.

Donovan Bros is violating 33 U.S.C. §§ 1342(p)(3)(A) and (p)(4)(A), and 40 C.F.R. §§ 122.26(c)(1) and (e)(1), by failing to apply for, obtain coverage, and comply with the requirements of the MSGP.[22] The Facility has a primary SIC Code of 1442 and must obtain coverage under the MSGP for its stormwater discharges and for stormwater discharges from any co-located industrial activities.[23] Donovan Bros' failure to obtain coverage and comply with the permit is in violation of the MSGP and Section 402, 33 U.S.C. § 1342(p) of the Clean Water Act.[24]

1) Donovan Bros Must Develop and Implement a Stormwater Pollution Prevention Plan (SWPPP).

As a prerequisite to applying for coverage under the MSGP, Donovan Bros must develop and implement a Stormwater Pollution Prevention Plan ("SWPPP").[25] The SWPPP must include, but is not limited to, the following: information related to a company stormwater pollution prevention team, a site description, a summary of pollutant sources, a description of control measures, and schedules and procedures pertaining to control measures and monitoring.[26] Donovan Bros has failed to develop and implement a SWPPP in accordance with the MSGP requirements in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

2) Donovan Bros Must Submit to EPA a Complete Notice of Intent to be Covered under the MSGP.

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[22] MSGP part 1.1 and 1.2.
[23] *See* MSGP part 1.1; MSGP part 8.J.
[24] A thorough search of EPA's databases indicates that Donovan Bros has not filed an NOI for the Facility.
[25] *See* MSGP part 5.
[26] *See* MSGP part 5.2.

To be eligible to discharge under the MSGP, Donovan Bros must submit a complete Notice of Intent ("NOI") to the EPA.[27] To complete the NOI, Donovan Bros is required to determine whether the body of water to which the stormwater discharges is an "impaired" water body, and whether the Facility discharges any specific pollutants listed on the NOI to that water body.[28] The Westfield River (Waterbody MA32-05) is classified as an "impaired" water.[29] Additionally, as part of preparing the NOI, the covered Facility must make certain verifications such as ensuring that no harm is done to a species in violation of the Endangered Species Act.[30] Donovan Bros has failed to prepare and file an NOI meeting all applicable requirements in violation of the MSGP and the Clean Water Act, 33 U.S.C. § 1342(p).

3) Donovan Bros Must Take Control Measures and Meet Water-Quality Effluent Limitations.

To be eligible to discharge under the MSGP, Donovan Bros must select, design, install, and implement control measures (including best management practices) to prevent polluted stormwater discharges from reaching nearby waterbodies. Donovan Bros must address the selection and design considerations in the permit, meet the non-numeric effluent limitations in the permit, and meet limits contained in applicable permit effluent limitations guidelines.[31] These control practices must be in accordance with good engineering practices and manufacturer's specifications.[32] If the control measures are not achieving their intended effect of minimizing pollutant discharges, the permittee must modify these control measures as expeditiously as practicable.[33] Donovan Bros has failed to cover the materials and operations that may result in polluted stormwater runoff. Donovan Bros has not implemented the required control measures in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

4) Donovan Bros Must Conduct Routine Facility Inspections.

To be eligible to discharge under the MSGP, Donovan Bros must conduct routine inspections of all areas of the Facility where industrial materials or activities are exposed to precipitation, and must ensure that all stormwater control measures comply with the effluent limits contained in the MSGP.[34] Routine inspections must be conducted at least quarterly but in many instances monthly inspections are most appropriate.[35] These inspections must occur when the Facility is in

[27] *See* MSGP part 1.2.
[28] *See* MSGP part 2.2.2.
[29] *See supra* note 3.
[30] *See* MSGP part 1.1.4.5 and 2.3.
[31] *See* MSGP part 2.1.
[32] *Id.*
[33] *Id.*
[34] *See* MSGP part 3.1.
[35] *Id.*

operation.[36] The schedule of these inspections must be included in the Facility's SWPPP and be performed by qualified personnel.[37] Donovan Bros has failed to conduct the required routine inspections in accordance with the MSGP requirements in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

5) Donovan Bros Must Comply with the Required Monitoring and Sampling Procedures.

To be eligible to discharge under the MSGP, Donovan Bros must collect and analyze stormwater samples and document monitoring activities consistent with the procedures in the MSGP.[38] The MSGP requires five types of analytical monitoring (one or more of which may apply) including quarterly benchmark monitoring, annual effluent limitations guidelines monitoring, State or Tribal-specific monitoring, impaired waters monitoring, and other monitoring as required by the EPA.[39] An operator must monitor each outfall identified in the SWPPP covered by a numeric effluent limit.[40] Required monitoring must be performed after stormwater events that result in an actual discharge on a required schedule.[41] All monitoring data collected under the Permit must be reported to EPA. Furthermore, because the Westfield River is an "impaired water" under Section 303(d) of the Clean Water Act, 33 U.S.C. § 1313(d), Donovan Bros must monitor for all pollutants for the Westfield River is impaired.[42] Donovan Bros has failed to conduct the required monitoring under the MSGP and has failed to submit the required monitoring reports to EPA in violation of the MSGP and the Clean Water Act, 33 U.S.C. § 1342(p).

6) Donovan Bros Must Carry Out the Required Reporting and Recordkeeping.

Donovan Bros must maintain and submit any and all required monitoring data.[43] Such monitoring data includes the following: an annual report to EPA which includes the Facility's findings from the annual comprehensive site inspection and any documentation of corrective actions;[44] an Exceedance Report to the EPA if any of the follow-up monitoring shows any exceedances of a numeric effluent limit;[45] and any other required reports under the MSGP.[46] Donovan Bros has failed to maintain the required records and failed to submit all required

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[36] *Id.*
[37] *Id.*
[38] *See* MSGP part 6.
[39] *See* MSGP part 6.2.
[40] *See* MSGP part 6.1.1.
[41] *See* MSGP part 6.1.3.
[42] *See* MSGP part 6.2.4
[43] *See* MSGP part 7.1
[44] *See* MSGP part 7.5.
[45] *See* MSGP part 7.6.
[46] *See* MSGP part 7.7.

monitoring data under the MSGP in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

7) Donovan Bros Must Comply with the Requirements of MSGP Subpart J

Donovan Bros must also comply with the sector-specific requirements contained in Subpart J of the MSGP.[47] Subpart J requires construction sand and gravel facilities to implement additional technology-based effluent limits,[48] meet additional SWPPP and inspection requirements,[49] and monitor stormwater discharges for compliance with the benchmark limitations applicable specifically to construction sand and gravel facilities.[50] Donovan Bros must also minimize contact of stormwater runoff with sand, gravel, stockpiled materials, processed materials and non-recyclable wastes through various control measures such as permanent or semi-permanent covers or roofs, interceptor or diversion controls (e.g., dikes, swales, curbs, or berms); pipe slope drains; subsurface drains; conveyance systems (e.g., channels or gutters, open-top box culverts, and waterbars; rolling dips and road sloping; roadway surface water deflector and culverts); or their equivalents.[51] Donovan Bros has failed to comply with the requirements of Subpart J of the MSGP in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

DATES OF VIOLATION

Each day on which Donovan Bros operates its Facility without permit coverage or discharges stormwater and/or process water without a permit from the Facility is a separate and distinct violation of Sections 301(a) and 402(p)(2)(B) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p)(2)(B).

Donovan Bros has discharged stormwater without a permit in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), on every day since at least 2010 on which there has been a measurable precipitation event. Each day on which Donovan Bros operates its Facility without permit coverage or discharges process water without a permit from the Facility is a separate and distinct violation of Section 301(a) of the CWA, 33 U.S.C. §§ 1311(a).

Every day, since at least 2010, on which Donovan Bros has failed and continues to fail to apply for, obtain coverage, and comply with the requirements of the MSGP is a violation of Section 402(p)(3)(A) and (p)(4)(A) of the CWA, 33 U.S.C. §§ 1342(p)(3)(A) and (p)(4)(A).

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[47] *See* MSGP, Appendix D, Table D-1, Sector J.
[48] *See* MSGP parts 8.J.4; 8.J.5.
[49] *See* MSGP part 8.J.6 and 8.J.7.
[50] *See* MSGP 8.J.8.
[51] *See* MSGP part 8.J.5.2.

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These violations are ongoing and continuous, and barring a change in the stormwater management controls at the Facility and full compliance with the permitting requirements of the Clean Water Act, these violations will continue indefinitely.

RELIEF REQUESTED

Donovan Bros is liable for the above-described violations occurring prior to the date of this letter, and for every day that these violations continue. Pursuant to Section 309(d) of the Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Act subjects Donovan Bros to a penalty up to $37,500 per day for each violation that occurred after January 12, 2009.[52] CLF will seek the full penalties allowed by law.

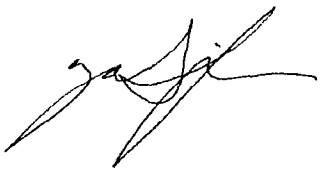
In addition to civil penalties, CLF will seek declaratory relief and injunctive relief to prevent further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), and such other relief as permitted by law. CLF will seek an order from the Court requiring Donovan Bros to correct all identified violations through direct implementation of control measures and demonstration of full regulatory compliance.

Lastly, pursuant to Section 505(d) of the Act, 33 U.S.C. § 1365(d), CLF will seek recovery of costs and fees associated with this matter.

CONCLUSION

During the 60-day notice period, CLF is willing to discuss effective remedies for the violations noted in this letter that may avoid the necessity of further litigation. If you wish to pursue such discussions, please have your attorney contact Zachary Griefen within the next 20 days so that negotiations may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing at the conclusion of the 60 days.

Sincerely,



[52] 40 C.F.R. § 19.2

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Zachary K. Griefen, Esq.
Conservation Law Foundation
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Montpelier, VT 05602
(802) 223-5992 x4011
zgriefen@clf.org

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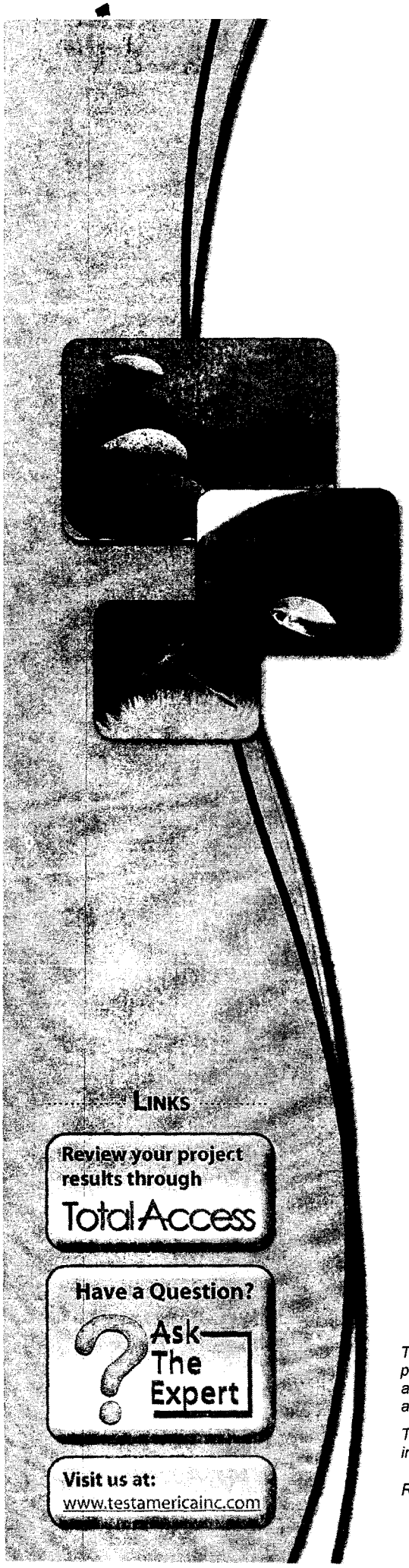
conservation law foundation

cc:

Gina McCarthy
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

H. Curtis Spalding
Environmental Protection Agency
EPA Region 1 Administrator
5 Post Office Square - Suite 100
Boston, MA 02109-3912

Martin Suuberg, Commissioner
Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108



TestAmerica

THE LEADER IN ENVIRONMENTAL TESTING

ANALYTICAL REPORT

TestAmerica Laboratories, Inc.
TestAmerica Buffalo
10 Hazelwood Drive
Amherst, NY 14228-2298
Tel: (716)691-2600

TestAmerica Job ID: 480-97124-1
Client Project/Site: Donovan Pond #4

For:
Tighe & Bond
53 Southampton Road
Westfield, Massachusetts 01085

Attn: Tim Keefe

Authorized for release by:
4/1/2016 11:01:13 AM

Janine Johnson, Project Manager I
(413)572-4000
janine.johnson@testamericainc.com

Table of Contents

Qualifiers

General Chemistry

Qualifier	Qualifier Description
HF	Field parameter with a holding time of 15 minutes. Test performed by laboratory at client's request.

Glossary

Abbreviation	These commonly used abbreviations may or may not be present in this report.
¤	Listed under the "D" column to designate that the result is reported on a dry weight basis
%R	Percent Recovery
CFL	Contains Free Liquid
CNF	Contains no Free Liquid
DER	Duplicate error ratio (normalized absolute difference)
Dil Fac	Dilution Factor
DL, RA, RE, IN	Indicates a Dilution, Re-analysis, Re-extraction, or additional Initial metals/anion analysis of the sample
DLC	Decision level concentration
MDA	Minimum detectable activity
EDL	Estimated Detection Limit
MDC	Minimum detectable concentration
MDL	Method Detection Limit
ML	Minimum Level (Dioxin)
NC	Not Calculated
ND	Not detected at the reporting limit (or MDL or EDL if shown)
PQL	Practical Quantitation Limit
QC	Quality Control
RER	Relative error ratio
RL	Reporting Limit or Requested Limit (Radiochemistry)
RPD	Relative Percent Difference, a measure of the relative difference between two points
TEF	Toxicity Equivalent Factor (Dioxin)
TEQ	Toxicity Equivalent Quotient (Dioxin)

Case Narrative

Client: Tighe & Bond
Project/Site: Donovan Pond #4

TestAmerica Job ID: 480-97124-1

Job ID: 480-97124-1

Laboratory: TestAmerica Buffalo

Narrative

Receipt

The samples were received on 3/26/2016 2:10 AM; the samples arrived in good condition, properly preserved and, where required, on ice. The temperature of the cooler at receipt was 3.0° C.

General Chemistry

No analytical or quality issues were noted, other than those described in the Definitions/Glossary page.

Detection Summary

Client: Tighe & Bond
Project/Site: Donovan Pond #4

TestAmerica Job ID: 480-97124-1

Client Sample ID: SAMPLE 01

Lab Sample ID: 480-97124-1

Analyte	Result	Qualifier	RL	RL	Unit	Dil Fac	D	Method	Prep Type
Total Suspended Solids	94		4.0		mg/L	1		SM 2540D	Total/NA

Client Sample ID: SAMPLE 02

Lab Sample ID: 480-97124-2

Analyte	Result	Qualifier	RL	MDL	Unit	Dil Fac	D	Method	Prep Type
pH	7.97	HF	0.200		SU	1		SM 4500 H+ B	Total/NA

Client Sample ID: SAMPLE 03

Lab Sample ID: 480-97124-3

No Detections.

This Detection Summary does not include radiochemical test results.

Client Sample ID: SAMPLE 01

Lab Sample ID: 480-97124-1

Date Collected: 03/23/16 09:00
Matrix: Water
Date Received: 03/26/16 02:10

General Chemistry

Analyte	Result	Qualifier	RL	RL	Unit	D	Prepared	Analyzed	Dil Fac
Total Suspended Solids	94		4.0		mg/L			03/28/16 17:02	1

Client Sample ID: SAMPLE 02

Lab Sample ID: 480-97124-2

Date Collected: 03/23/16 09:05
Matrix: Water
Date Received: 03/26/16 02:10

General Chemistry

Analyte	Result	Qualifier	RL	MDL	Unit	D	Prepared	Analyzed	Dil Fac
pH	7.97	HF	0.200		SU			03/29/16 12:47	1

Client Sample ID: SAMPLE 03

Lab Sample ID: 480-97124-3

Date Collected: 03/23/16 09:08
Matrix: Water
Date Received: 03/26/16 02:10

General Chemistry

Analyte	Result	Qualifier	RL	MDL	Unit	D	Prepared	Analyzed	Dil Fac
Nitrate Nitrite as N	ND		0.050		mg/L			03/28/16 15:33	1

Method: 353.2 - Nitrogen, Nitrate-Nitrite

Lab Sample ID: MB 480-292966/4
Matrix: Water
Analysis Batch: 292966

Client Sample ID: Method Blank
Prep Type: Total/NA

Analyte	MB Result	MB Qualifier	RL	MDL	Unit	D	Prepared	Analyzed	Dil Fac
Nitrate Nitrite as N	ND		0.050		mg/L			03/28/16 15:31	1

Lab Sample ID: LCS 480-292966/5
Matrix: Water
Analysis Batch: 292966

Client Sample ID: Lab Control Sample
Prep Type: Total/NA

Analyte	Spike Added	LCS Result	LCS Qualifier	Unit	D	%Rec	%Rec. Limits
Nitrate Nitrite as N	1.50	1.53		mg/L		102	90 - 110

Lab Sample ID: 480-97124-3 MS
Matrix: Water
Analysis Batch: 292966

Client Sample ID: SAMPLE 03
Prep Type: Total/NA

Analyte	Sample Result	Sample Qualifier	Spike Added	MS Result	MS Qualifier	Unit	D	%Rec	%Rec. Limits
Nitrate Nitrite as N	ND		1.00	1.04		mg/L		104	90 - 110

Method: SM 2540D - Solids, Total Suspended (TSS)

Lab Sample ID: MB 480-292968/1
Matrix: Water
Analysis Batch: 292968

Client Sample ID: Method Blank
Prep Type: Total/NA

Analyte	MB Result	MB Qualifier	RL	RL	Unit	D	Prepared	Analyzed	Dil Fac
Total Suspended Solids	ND		1.0		mg/L			03/28/16 17:02	1

Lab Sample ID: LCS 480-292968/2
Matrix: Water
Analysis Batch: 292968

Client Sample ID: Lab Control Sample
Prep Type: Total/NA

Analyte	Spike Added	LCS Result	LCS Qualifier	Unit	D	%Rec	%Rec. Limits
Total Suspended Solids	255	256		mg/L		100	88 - 110

Method: SM 4500 H+ B - pH

Lab Sample ID: 480-97124-2 DU
Matrix: Water
Analysis Batch: 329037

Client Sample ID: SAMPLE 02
Prep Type: Total/NA

Analyte	Sample Result	Sample Qualifier	DU Result	DU Qualifier	Unit	D	RPD	RPD Limit
pH	7.97	HF	7.930		SU		0.5	

QC Association Summary

Client: Tighe & Bond
Project/Site: Donovan Pond #4

TestAmerica Job ID: 480-97124-1

General Chemistry

Analysis Batch: 292966

Lab Sample ID	Client Sample ID	Prep Type	Matrix	Method	Prep Batch
480-97124-3	SAMPLE 03	Total/NA	Water	353.2	
480-97124-3 MS	SAMPLE 03	Total/NA	Water	353.2	
LCS 480-292966/5	Lab Control Sample	Total/NA	Water	353.2	
MB 480-292966/4	Method Blank	Total/NA	Water	353.2	

Analysis Batch: 292968

Lab Sample ID	Client Sample ID	Prep Type	Matrix	Method	Prep Batch
480-97124-1	SAMPLE 01	Total/NA	Water	SM 2540D	
LCS 480-292968/2	Lab Control Sample	Total/NA	Water	SM 2540D	
MB 480-292968/1	Method Blank	Total/NA	Water	SM 2540D	

Analysis Batch: 329037

Lab Sample ID	Client Sample ID	Prep Type	Matrix	Method	Prep Batch
480-97124-2	SAMPLE 02	Total/NA	Water	SM 4500 H+ B	
480-97124-2 DU	SAMPLE 02	Total/NA	Water	SM 4500 H+ B	

Lab Chronicle

Client: Tighe & Bond
Project/Site: Donovan Pond #4

TestAmerica Job ID: 480-97124-1

Client Sample ID: SAMPLE 01

Lab Sample ID: 480-97124-1
Matrix: Water
Date Collected: 03/23/16 09:00
Date Received: 03/26/16 02:10

Prep Type	Batch Type	Batch Method	Run	Dilution Factor	Batch Number	Prepared or Analyzed	Analyst	Lab
Total/NA	Analysis	SM 2540D		1	292968	03/28/16 17:02	MGH	TAL BUF

Client Sample ID: SAMPLE 02

Lab Sample ID: 480-97124-2
Matrix: Water
Date Collected: 03/23/16 09:05
Date Received: 03/26/16 02:10

Prep Type	Batch Type	Batch Method	Run	Dilution Factor	Batch Number	Prepared or Analyzed	Analyst	Lab
Total/NA	Analysis	SM 4500 H+ B		1	329037		SMO	TAL CHI
					(Start)	03/29/16 12:47		
					(End)	03/29/16 12:51		

Client Sample ID: SAMPLE 03

Lab Sample ID: 480-97124-3
Matrix: Water
Date Collected: 03/23/16 09:08
Date Received: 03/26/16 02:10

Prep Type	Batch Type	Batch Method	Run	Dilution Factor	Batch Number	Prepared or Analyzed	Analyst	Lab
Total/NA	Analysis	353.2		1	292966	03/28/16 15:33	CLT	TAL BUF

Laboratory References:

TAL BUF = TestAmerica Buffalo, 10 Hazelwood Drive, Amherst, NY 14228-2298, TEL (716)691-2600

TAL CHI = TestAmerica Chicago, 2417 Bond Street, University Park, IL 60484, TEL (708)534-5200

Certification Summary

Client: Tighe & Bond
Project/Site: Donovan Pond #4

TestAmerica Job ID: 480-97124-1

Laboratory: TestAmerica Buffalo

The certifications listed below are applicable to this report.

Authority	Program	EPA Region	Certification ID	Expiration Date
Massachusetts	State Program	1	M-NY044	06-30-16

Laboratory: TestAmerica Chicago

The certifications listed below are applicable to this report.

Authority	Program	EPA Region	Certification ID	Expiration Date
Massachusetts	State Program	1	M-IL035	06-30-16 *

* Certification renewal pending - certification considered valid.

Method Summary

Client: Tighe & Bond
Project/Site: Donovan Pond #4

TestAmerica Job ID: 480-97124-1

Method	Method Description	Protocol	Laboratory
353.2	Nitrogen, Nitrate-Nitrite	MCAWW	TAL BUF
SM 2540D	Solids, Total Suspended (TSS)	SM	TAL BUF
SM 4500 H+ B	pH	SM	TAL CHI

Protocol References:

MCAWW = "Methods For Chemical Analysis Of Water And Wastes", EPA-600/4-79-020, March 1983 And Subsequent Revisions.
SM = "Standard Methods For The Examination Of Water And Wastewater",

Laboratory References:

TAL BUF = TestAmerica Buffalo, 10 Hazelwood Drive, Amherst, NY 14228-2298, TEL (716)691-2600
TAL CHI = TestAmerica Chicago, 2417 Bond Street, University Park, IL 60484, TEL (708)534-5200

Sample Summary

Client: Tighe & Bond
Project/Site: Donovan Pond #4

TestAmerica Job ID: 480-97124-1

Lab Sample ID	Client Sample ID	Matrix	Collected	Received
480-97124-1	SAMPLE 01	Water	03/23/16 09:00	03/26/16 02:10
480-97124-2	SAMPLE 02	Water	03/23/16 09:05	03/26/16 02:10
480-97124-3	SAMPLE 03	Water	03/23/16 09:08	03/26/16 02:10

Login Sample Receipt Checklist

Client: Tighe & Bond

Job Number: 480-97124-1

Login Number: 97124
List Number: 1
Creator: Williams, Christopher S

List Source: TestAmerica Buffalo

Question	Answer	Comment
Radioactivity either was not measured or, if measured, is at or below background	True	
The cooler's custody seal, if present, is intact.	True	
The cooler or samples do not appear to have been compromised or tampered with.	True	
Samples were received on ice.	True	
Cooler Temperature is acceptable.	True	
Cooler Temperature is recorded.	True	
COC is present.	True	
COC is filled out in ink and legible.	True	
COC is filled out with all pertinent information.	True	
Is the Field Sampler's name present on COC?	True	
There are no discrepancies between the sample IDs on the containers and the COC.	True	
Samples are received within Holding Time (Excluding tests with immediate HTs)..	True	
Sample containers have legible labels.	True	
Containers are not broken or leaking.	True	
Sample collection date/times are provided.	True	
Appropriate sample containers are used.	True	
Sample bottles are completely filled.	True	
Sample Preservation Verified	True	
There is sufficient vol. for all requested analyses, incl. any requested MS/MSDs	True	
VOA sample vials do not have headspace or bubble is <6mm (1/4") in diameter.	N/A	
If necessary, staff have been informed of any short hold time or quick TAT needs	True	
Multiphasic samples are not present.	True	
Samples do not require splitting or compositing.	True	
Sampling Company provided.	True	T AND B
Samples received within 48 hours of sampling.	False	3/23/2016
Samples requiring field filtration have been filtered in the field.	N/A	
Chlorine Residual checked.	N/A	

Login Sample Receipt Checklist

Client: Tighe & Bond

Job Number: 480-97124-1

Login Number: 97124
List Number: 2
Creator: Sanchez, Ariel M

List Source: TestAmerica Chicago
List Creation: 03/29/16 10:51 AM

Question	Answer	Comment
Radioactivity wasn't checked or is </= background as measured by a survey meter.	True	
The cooler's custody seal, if present, is intact.	True	
Sample custody seals, if present, are intact.	True	
The cooler or samples do not appear to have been compromised or tampered with.	True	
Samples were received on ice.	True	
Cooler Temperature is acceptable.	True	
Cooler Temperature is recorded.	True	-0.1
COC is present.	True	
COC is filled out in ink and legible.	True	
COC is filled out with all pertinent information.	True	
Is the Field Sampler's name present on COC?	True	
There are no discrepancies between the containers received and the COC.	True	
Samples are received within Holding Time (excluding tests with immediate HTs)	True	
Sample containers have legible labels.	True	
Containers are not broken or leaking.	True	
Sample collection date/times are provided.	True	
Appropriate sample containers are used.	True	
Sample bottles are completely filled.	True	
Sample Preservation Verified.	True	
There is sufficient vol. for all requested analyses, incl. any requested MS/MSDs	True	
Containers requiring zero headspace have no headspace or bubble is <6mm (1/4").	N/A	
Multiphasic samples are not present.	True	
Samples do not require splitting or compositing.	True	
Residual Chlorine Checked.	N/A	

TestAmerica Westfield
501 Southampton Road
Westfield MA 01085
Phone: (413) 572-4000 Fax: (303) 467-7247

360-Westfield

TestAmerica Boston
240 Bear Hill Road -- Suite 104
Waltham MA 02451
Phone: (781) 466-6900 Fax: (781) 466-6901

Chain of Custody Record

TestAmerica
THE LEADER IN ENVIRONMENTAL TESTING

Client Information:

Client Contact:

Company: Tighe & Bond

Address: 53 Southampton RD

City: Westfield

State and Zip: MA 01085

Client's Phone: (413) 572 3282

Client's Contact Email: TSkeefe@tighebond.com

Client's Project Name/Number:

Sample Collection Site Name & Location: Donovan Pond #4

Sample Collector's Name (Please Print Neatly): Timothy Keefe

Sample Collector's Phone: 413 572 3282

Lab PM:

E-Mail: TSkeefe@tighebond.com

Lab COC Barcode Label: 360-Westfield

COC No: 34565

Page: 1 of 1

Job #:

Due Date Requested:

Turnaround Time (TAT) Requested (business days):

Quote # or Project #:

PO #:

WO #:

PWS ID #:

Analysis Requested

480-97124 Chain of Custody

Preservation Codes:

A - Hydrochloric Acid
B - Sodium Hydroxide
C - Zinc Acetate
D - Nitric Acid
E - Sodium Bisulfite
F - Methanol
H - Ascorbic Acid
J - Deionized Water
M - Hexane
N - No Preservative
P - Sodium Sulfate
Q - Sodium Sulfite
R - Sodium Thiosulfate
S - Sulfuric Acid
Z - other (specify)

Regulatory Programs:

MCP ☐ GW1/S1 ☐
RCP ☐ CT RSR ☐
DEP Form ☐ EDD Required ☐
eDEP Filing ☐ NPDES ☒

SUBCONTRACT POLICY: Unless you provide instructions to the contrary, or specify which sub-contract labs are or are not to be used, you agree in advance to permit TestAmerica to use certified, subcontract labs, without any additional notification made by us, as necessary to fulfill your work order.

Sample Identification	Sample Collection Date (MM/DD/YY)	Sample Collection Time (24 Hour Clock)	Sample Type: C=Comp G=Grab	Matrix Type **	TSS	NO2+NO3	pH	Total Number of Containers (enter total for each line)	Special Instructions & Notes:
Sample 01	3/23/16	9:00	G		✓				TSS
Sample 02	"	9:05	G			✓	✓		pH
Sample 03	"	9:08	G						NO_2+NO_3

Page 15 of 16

Possible Hazard Identification (please check off each that may apply):
☒ Non-Hazard ☐ Flammable ☐ Skin Irritant ☐ Poison B ☐ Unknown ☐ Radiological

Sample Disposal Requirements (A fee may be assessed if samples are retained longer than 1 month) :
☐ Return To Client ☒ Disposal By Lab ☐ Archive For _____ Months

** Matrix Types: A=Air S=Solid/Soil W=Water O=Oil X=Waste (non-water) Z=Other: _____

▶ NOTE!! ALL SAMPLES MUST BE TRANSPORTED IN A COOLER, ON ICE !! ◀

	Date/Time:	Company		Date/Time:	Company
Relinquished by:	3/25/16	TB	Received by:	3/25/16 1345	TB
Relinquished by:	3/25/16 1700	TB	Received by:	3-26-16 0210	TNB
Relinquished by:	Date/Time:	Company	Received by:	Date/Time:	Company

Custody Seals Intact: Δ Yes Δ No

Custody Seal No.:

Cooler Temperature(s) °C and Other Remarks: 3.0

Revised 10/29/2014
TAL-8245-360R

WI-QA-010 rev 8

TestAmerica Buffalo
10 Hazelwood Drive
Amherst, NY 14228-2298
Phone (716) 691-2600 Fax (716) 691-7991

Chain of Custody Record

TestAmerica
THE LEADER IN ENVIRONMENTAL TESTING

Client Information (Sub Contract Lab)	Sampler:	Lab PM: Johnson, Janine	Carrier Tracking No(s):	COC No: 480-28542.1
Client Contact: Shipping/Receiving	Phone:	E-Mail: janine.johnson@testamericainc.com		Page: Page 1 of 1
Company: TestAmerica Laboratories, Inc.		Analysis Requested		Job #: 480-97124-1
Address: 2417 Bond Street,	Due Date Requested: 3/31/2016			Preservation Codes:
City: University Park	TAT Requested (days):			A - HCL, B - NaOH, C - Zn Acetate, D - Nitric Acid, E - NaHSO4, F - MeOH, G - Amchlor, H - Ascorbic Acid, I - Ice, J - DI Water, K - EDTA, L - EDA, M - Hexane, N - None, O - AsNaO2, P - Na2O4S, Q - Na2SO3, R - Na2S2O3, S - H2SO4, T - TSP Dodecahydrate, U - Acetone, V - MCAA, W - ph 4-5, Z - other (specify)
State, Zip: IL, 60484	PO #:			
Phone: 708-534-5200(Tel) 708-534-5211(Fax)	WO #: 480-97124 COC			Other:
Email:	Project #: 48007519			
Project Name: Donovan Pond #4	SSOW#:			
Site:				

Sample Identification - Client ID (Lab ID)	Sample Date	Sample Time	Sample Type (C=comp, G=grab)	Matrix (W=water, S=solid, O=waste/oil, BT=Tissue, A=Air)	Field Filtered Sample (Yes or No)	SM4500_H+/ pH	Total Number of containers	Special Instructions/Note:
			Preservation Code:					
SAMPLE 02 (480-97124-2)	3/23/16	09:05 Eastern		Water		X		

Possible Hazard Identification	Sample Disposal (A fee may be assessed if samples are retained longer than 1 month)
Unconfirmed	☐ Return To Client ☐ Disposal By Lab ☐ Archive For _____ Months
Deliverable Requested: I, II, III, IV, Other (specify)	Special Instructions/QC Requirements:

Empty Kit Relinquished by:	Date:	Time:	Method of Shipment:				
Relinquished by:	Date/Time: 3/24/16 1600	Company TABUT.	Received by:	Date/Time: 03/29/16 10:25	Company TA-CHI		
Relinquished by:	Date/Time:	Company	Received by:	Date/Time:	Company		
Relinquished by:	Date/Time:	Company	Received by:	Date/Time:	Company		

Custody Seals Intact: Δ Yes Δ No	Custody Seal No.:	Cooler Temperature(s) °C and Other Remarks: -0.1